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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,444	04/06/2001	Curt V. Avallone	21631-0009	6897
26587 7590 08/28/2009 MCNEES WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166				
EXAMINER ELISCA, PIERRE E				
ART UNIT 3621		PAPER NUMBER		
NOTIFICATION DATE 08/28/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@mw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* CURT AVALLONE and JACOB MARK

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Application No. 09/828,444  
Technology Center 3600

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Mailed: August 28, 2009

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Before TOI JOHNSON *Review Paralegal*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 17, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

A prior "Order Returning Undocketed Appeal to Examiner" was mailed on August 14, 2008, wherein the Examiner was instructed to issue a revised Examiner's Answer for the new grounds of rejection. A review of the file finds that a revised Examiner's Answer was submitted however, the Technology Center (TC) Director's signature is missing.

MPEP § 1207.03 states:

Any new ground of rejection made by an examiner in an answer must be:

(A) approved by a Technology Center (TC) Director or designee; and  
(B) prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the answer (see MPEP § 1207.02).

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90A which includes the required signatures noted above; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Application No. 09/828,444

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